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Proposed Amendments to the GST Grouping Rules

The Assistant Treasurer has released draft legislation proposing amendments to the GST Grouping rules. The changes are proposed to apply from 1 July 2011.

The GST Grouping membership rules are proposed to be amended so that entities will be able to form a GST Group if, in addition to the general membership requirements, they are closely connected.

Entities will be closely connected if they:

- Are members of an income tax law consolidated group;
- Are in the same closely held group;
- Are in the same extended family group;
- Have shared ownership;
- Are in the same charitable group; or
- Are non-profit bodies and members of the same non-profit-association.

Further, it is proposed that the Holding entity rules be amended so that a Holding Company or a Holding Trust will be able to register for GST and group for GST purposes with its subsidiary(s) despite it not carrying on an enterprise.

The proposed changes also clarify that specific contribution amounts, calculated under an indirect tax sharing agreement, must be provided to the Tax Office if requested.

These proposed changes are intended to result in more 'principle-based' and simpler GST Grouping rules and allow the GST grouping of non-operating holding entities.

Tax Consequences of Bonus Units as Part of an Employee Benefits Trust Arrangement: Taxation Ruling TR 2010/6

The Ruling details the tax consequences for employers, employees and trustees where bonus units are issued in such an arrangement.

In particular, the Ruling addresses and comments accordingly on the following:

- An employee in receipt of bonus units has not derived salary or wages or bonus income as the employee has only acquired a right to receive salary or wages or bonus income.
- The right to receive salary or wages or bonus income is excluded from the definition of a fringe benefit. However, where the bonus unit is not a right to receive salary or wages the issue by the trustee of the bonus unit is the provision of an external property fringe benefit to the employee.
- When an employee redeems bonus units and receives a payment from the trustee this payment is considered to be salary or wages or bonus income. Such a payment received by the employee has the character of salary or wages or bonus income because the payment is made to the employee as a reward for services provided by the employee to the employer.
- Due to the payment received by an employee on the redemption of bonus units being considered to be salary or wages, compensation, benefits or bonuses, PAYG Withholding obligations apply to the trustee of the trust, being the entity making the payment.
- The arrangement would not give rise to a tax benefit as defined and so would not attract the operation of Part IVA. However, should circumstances exist where the payment received on redemption of the bonus units does not constitute salary or wages or bonus income then the application of Part IVA may be considered.

Note that the Ruling does not comment on the deductibility of expenditure incurred in relation to the issue, receipt or redemption of the bonus units.

Reminder: Deductions for Personal Superannuation Contributions

To be eligible for a deduction for a personal superannuation contribution, the eligible individual must:

- (a) give a notice to the fund trustee stating his or her intention to claim a deduction; and
- (b) receive an acknowledgment of receipt of the notice.

The notice must be given by the time the person lodges his or her income tax return for the year in which the contribution is made or, if no return has been lodged by the end of the following income year, by the end of that following year.

Important: This is not advice. Clients should not act solely on the basis of the material contained in this Bulletin. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Bulletin is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.